IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WP(C).No. 14959 of 2005(E)

CMA.7/2004 of SUB COURT,NEYYATTINKARA
OS.931/2003 of PRL.M.C.,NEYYATTINKARA

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PETITIONER:

K.RAMABHADRAN, AGED 39 YEARS,
S/O.KUNJUKRISHNA PANICKER,
KALLAYIL VEEDU, VELLARADA, VELLARADA P.O.

BY ADV. SRI.D.KISHORE

RESPONDENTS:

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1. DHAMAYANTHI, AGED 65 YEARS,
D/O.NARAYANI, SANAL SADANAM,
VELLARADA, VELLARADA P.O.

2. SHIBU, AGED 33 YEARS,
S/O.KARUNAKARAN, KARUNALAYAM,
VELLARADA, VELLARADA P.O.

3. PRASOBHA, AGED 39,
W/O.SADASIVAN, LOTUS VILLA,
VELLARADA AND VELLARADA P.O.

4. SADASIVAN, AGED 49 YEARS,
S/O.CHELLAN PANICKER, LOTUS VILLAGE,
VELLARADA, VELLARADA P.O.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 14959 of 2005

Dated this the 18th day of August , 2007

JUDGMENT

Last time when the case is came up for admission, it was submitted by the petitioner that the case be posted as and when moved again. Today there is no representation for the petitioner. This writ petition has been filed under Article 227 of the Constitution seeking to quash Ext.P7 order of the learned Munsiff dismissing an application for temporary injunction and Ext.P8 judgment of the learned Subordinate Judge disposing of the CMA filed against Ext.P7, vacating the finding of the learned Munsiff regarding possession, but at the same time, confirming Ext.P7 and declining to grant injunction.

2. The prominent ground raised is that since Ext.P3 petition for prosecution in terms of Order 39 Rule 2A of CPC and Ext.P5 application for mandatory injunction for restoration of the status quo ante were pending, the learned Munsiff should not have dismissed the injunction application. I am not very much impressed by the above grounds.

3. Having gone through Ext.P7 and P8, it is not possible to say that the findings therein are vitiated to the extent of justifying interference under the supervisory jurisdiction which is invoked only in

exceptional cases. In all probabilities, the trial of the suit which was of the year 2003 has already proceeded. I dispose of the writ petition issuing the following directions:

If O.S. No.931/2003 is not already disposed of, the learned Munsiff, Neyyattinkara, will try and dispose of the same in accordance with law, without being influenced by the findings entered in Exts.P7 and P8. Decision in the suit will be taken on the basis of the evidence which comes on record at the time of trial. The learned Munsiff will treat the findings in Exts.P7 and P8 as provisional findings entered only for the purpose of the interlocutory proceedings. Suit will be disposed of (if not already disposed of) as directed above at the earliest and at any rate within three months of receiving a copy of this judgment.

PIUS C. KURIAKOSE,
JUDGE.

dpk